

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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ANTHONY JAMES ISHAM,

Civil File No. 06-3780 (PJS/SRN)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

VIRGINIA MEDICAL CENTER, and  
ONE UNKNOWN NAMED EMPLOYEE OF  
THE VIRGINIA MEDICAL CENTER,

Defendants.

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This matter is presently before the Court for the purpose of determining whether Plaintiff has complied with the requirements of the last previous order entered in this case. (Docket No. 3.) That order granted Plaintiff leave to proceed in forma pauperis, (“IFP”), and directed him to file a properly completed U.S. Marshal service form, (USM-285), so that service of process could be effected. Plaintiff was advised that the Marshal would not be able to accomplish service of process, and that this case could not go forward, unless he filed a properly completed marshal service form. The order also expressly advised Plaintiff that if he did not file his marshal service form within thirty (30) days, he would be deemed to have abandoned this action, and it would be recommended that the action be summarily dismissed for lack of prosecution.

The deadline for complying with the Court’s last order expired long ago, and Plaintiff still has not submitted the required marshal service form. Nor has Plaintiff offered any explanation for his failure to do so. Indeed, Plaintiff has not communicated with the Court at all since he was ordered to submit his marshal service materials more than a year ago.

Therefore, based on the express warning regarding the consequences that would follow if Plaintiff failed to comply with the requirements of the Court's prior order, it is now recommended that Plaintiff be deemed to have abandoned this action, and that the action be dismissed, without prejudice, for failure to prosecute. See Fed. R. Civ. P. 41(b) (actions may be dismissed for failure to comply with court orders); see also Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to "manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases").

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

This action be **DISMISSED WITHOUT PREJUDICE**.

Dated: February 11, 2008

s/ Susan Richard Nelson  
SUSAN RICHARD NELSON  
United States Magistrate Judge

Under D. Minn. LR 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **February 26, 2008** a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable to the Circuit Court of Appeals.